

APPEAL NO. 020536
FILED APRIL 18, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on February 19, 2002. The hearing officer determined that the appellant (claimant) did not sustain a compensable injury on _____, and that he therefore did not have disability. The claimant appealed on sufficiency grounds. The respondent (self-insured) responded, urging affirmance.

DECISION

Affirmed.

The claimant testified that he had sustained an injury to his lower back while lifting and pushing some heavy "bundles" on _____, and that he has not been able to work since _____, because of his injury. The self-insured presented evidence to support its assertion that the claimant did not sustain a work-related injury or have disability.

The claimant had the burden to prove that he was injured in the course and scope of his employment. There is conflicting evidence in this case. The 1989 Act makes the hearing officer the sole judge of the weight and credibility to be given to the evidence. Section 410.165(a). As the fact finder, the hearing officer resolves the conflicts and inconsistencies in the evidence and decides what facts the evidence has established. Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). In this instance, the hearing officer was not persuaded that the claimant sustained his burden of proving that he was injured at work as he claimed. Nothing in our review of the record reveals that the hearing officer's determination in that regard is so contrary to the overwhelming weight of the evidence as to be clearly wrong or manifestly unjust. Thus, no sound basis exists for us to disturb the hearing officer's injury determination on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Given our affirmance of the hearing officer's determination that the claimant did not sustain a compensable injury, we likewise affirm her determination that the claimant did not have disability. By definition, the existence of a compensable injury is a prerequisite to a finding of disability. Section 401.011(16).

The hearing officer's decision and order are affirmed.

The true corporate name of the self-insured is **(self-insured)** and the name and address of its registered agent for service of process is

**C. T. CORPORATION
811 DALLAS AVENUE
HOUSTON, TEXAS 77002.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Edward Vilano
Appeals Judge